

EXPANDED BRADY BACKGROUND CHECKS

H.R. 8: The Bipartisan Background Check Act of 2019, introduced Jan. 8, 2019 by Rep. Mike Thompson (D-CA-5), alongside 9 original bipartisan co-sponsors

S. 42: The Background Check Expansion Act, introduced Jan. 8, 2019 by Sen. Chris Murphy (D-CT)

MYTHS vs. FACTS

MYTH:

H.R. 8 and S. 42 will ban private gun sales.¹

FACT:

The Expanded Background Check bill does not ban private gun sales. This bill makes it unlawful to sell or transfer a firearm in any transaction without a Brady background check. This will expand the current Brady law to every sale or transfer in private sales, save for certain exceptions. In 2017, about 90 percent of background check requests received an immediate determination.²

MYTH:

Criminals won't submit to background checks - they steal or straw purchase their guns.³

FACT:

America is a nation built on the rule of law. While recognizing that certain individuals will try to circumvent the law, we know conclusively that Brady background checks prevent criminals from obtaining guns. Over 3 million prohibited purchases have been stopped by the NICS system created by the Brady law.⁴ In 2015 alone, NICS denied almost 226,000 transactions to prohibited purchasers - that's about **619 every day**. Over 80,000 of those denials were for individuals with felony convictions, over 30,000 were fugitives from justice, and almost 17,000 were disqualified on the basis of domestic violence convictions. Background checks are effective, and prevent criminals and other dangerous individuals from getting guns every single day in America. Expanding Brady background checks will make us all safer.⁵

MYTH:

Background checks deprive individuals of due process of law.⁶

FACT:

H.R. 8 and S. 42 do not prohibit citizens from exercising their Second Amendment rights to keep and buy guns. This bill simply makes private sellers subject to the same Brady background check now required for gun sales through gun dealers. These background checks prevent gun sales to felons, fugitives, domestic abusers, and other dangerous individuals. Unless the system flags potentially disqualifying records, sales will immediately proceed. A well-established existing process allows anyone who feels they were wrongfully denied to appeal the decision to the NICS Voluntary Appeal File, which then carefully investigates the case to ensure the correct decision was rendered.

MYTH:

This bill will do nothing to prevent mass shootings.⁷

FACT:

We conclusively know that Brady background checks prevent dangerous individuals from obtaining guns - an average of 619 prohibited purchasers were blocked from buying guns every single day in 2015.⁸ Taken with other measures, such as extreme risk laws which prevent access to firearms by people who may be at risk of harming themselves and others, expanded background checks are a critical component to preventing future mass tragedies. Dangerous people will be prevented from easily obtaining firearms from the internet, gun shows, or other private sales.

MYTH:

There is no "online sales loophole" or "gun show loophole."⁹

FACT:

While licensed dealers selling firearms at gun shows or on the internet are required to conduct background checks, private sellers (or those not "in the business" of selling firearms) on the internet, at gun shows – or anywhere else – do not have such a federal requirement. While some states have expanded their background check system to cover more gun sales, they are still subject to the weakness of gun laws in neighboring jurisdictions. Most recent statistics show that about one in five guns are sold by private sellers without a background check.¹⁰ Many of these sales are initiated online through the use of websites like Armslist.com, where a dangerous person can locate a nearby seller and buy a gun with cash and no paperwork. Comprehensive federal legislation must be passed to protect Americans in every state and close these deadly loopholes.

MYTH:

Expanded background checks will criminalize gifts between family members.

FACT:

H.R. 8 and S. 42 allow for firearms to be given as gifts between close family members. Transfers between spouses, domestic partners, between parents and their children, between siblings, between aunts or uncles and their nieces or nephews, or between grandparents and their grandchildren, are completely legal under this legislation. The only time it isn't allowed is if your relative is prevented from having a gun by law.

MYTH:

I won't be able to lend my gun to a friend or family member at the gun range or while hunting.

FACT:

H.R. 8 and S. 42 have exceptions that allow friends to borrow a gun while at shooting ranges or galleries. Additionally, they can borrow guns for hunting, trapping, or fishing as long as they comply with all the necessary federal and state licensing requirements specific to those activities. Lending someone a gun in either of these circumstances is allowed as long as it is done at the range or where the hunting, trapping, or fishing is taking place and the person borrowing the gun is legally allowed to possess one.

MYTH:

If I let a friend or family member hold my gun, I am breaking the law.

FACT:

Temporary transfers of firearms are allowed if the person possessing the gun is in the presence of the person who owns it, and the person who owns the gun has no reason to believe that they will do anything unlawful or are prohibited from possessing a firearm.

MYTH:

This law will put an unnecessary burden on private gun sellers.

FACT:

In reality, expanding Brady background checks to private sales will make every sale easier and safer. By working with a licensed dealer to initiate the background check, law-abiding gun owners will be certain that they are not unintentionally selling their gun to a dangerous person. Support for expanding background checks among gun owners is just as high as it is in the general population - about 97 percent believe a background check for every gun sale is the right policy for America.

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1. Gun Owners of America, "Concealed Carry Reciprocity Could Be the Silver Bullet that Kills all Gun Control." <https://www.gunowners.org/alert1010819.htm>.
 2. FBI, "NICS 2017 Operations Report" <https://www.fbi.gov/file-repository/2017-nics-operations-report.pdf/view>.
 3. N.R.A.-I.L.A., "Background Checks/NICS." <https://www.nraila.org/get-the-facts/background-checks-nics/>
 4. Brady Center to Prevent Gun Violence, "20 Years of Brady Background Checks: The Case for Finishing the Job to Keep America Safer," (2014), p. 9, available at <http://www.bradycampaign.org/sites/default/files/Brady-20-years-report.pdf>.
 5. U.S. Department of Justice, Background Checks for Firearms Transfers, 2015 - Statistical Tables, <https://www.bjs.gov/content/pub/pdf/bcft15st.pdf>.
 6. Gun Owners of America, "Concealed Carry Reciprocity Could Be the Silver Bullet that Kills all Gun Control." <https://www.gunowners.org/alert1010819.htm> and N.R.A.-I.L.A., "Background Checks/NICS." <https://www.nraila.org/get-the-facts/background-checks-nics/>.
 7. N.R.A.-I.L.A., "Background Checks/NICS." <https://www.nraila.org/get-the-facts/background-checks-nics/>
 8. U.S. Department of Justice, Background Checks for Firearms Transfers, 2015 - Statistical Tables, <https://www.bjs.gov/content/pub/pdf/bcft15st.pdf>. This is an average of prohibited sales from 1994-2015.
 9. N.R.A.-I.L.A., "Background Checks/NICS." <https://www.nraila.org/get-the-facts/background-checks-nics/>.
 10. Brady Campaign to Prevent Gun Violence. "America's Background Check System and Ways to Improve It." <http://www.bradycampaign.org/sites/default/files/FixNICSReport.pdf>.



Brady Campaign

To Prevent Gun Violence